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97-177-5

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

John Harada, et al.

Application No.: 09/516,052

Filed: March 1, 2000

For: LEAFY COTYLEDON1 GENES
AND THEIR USES

Examiner: C. Collins

Art Unit: 1638

RESPONSE TO RESTRICTION
REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed August 16, 2001, applicants hereby elect with traverse the claims of Group II (claims 4-5, 23-24, 50-51 and 59-60) if claims 1, 21, 47 and 58 are included in Group II. If claims 1, 21, 47 and 58 are not included in Group II, Applicants elect with traverse Group I (claims 1-3, 9, 21-22, 28-29, 35-36, 39, 42-43, 46-49, 54-55, 58, 63 and 69).

REMARKS

1. Examination of claim 1-69 would not create an undue burden

Applicants respectfully submit that examination of claims 1-69 would not create an undue burden for the Examiner.

According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. See, the MPEP at 803.01. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the

claims would involve substantially different prior art searches, making the co-examination burdensome.

2. *A Search of the Sequences Recited in Independent Claims 1, 21, 47 and 58 Will Identify Art Relevant to the Claims of Group II*

Restriction Groups I, II and IV were apparently restricted by the Examiner because the groups encompass different sequences (encoding SEQ ID NOs:2, 20 and 22, respectively) exemplified in the specification. Applicants submit that the present application describes a non-Markush genus of polynucleotides (e.g., as recited in claims 1, 21, 47 and 58) that encompasses all polynucleotides encoding the particular sequences recited in the dependent claims (e.g., SEQ ID NOs:2, 20, and 22). Therefore, it is appropriate to include claims 1, 21, 47 and 58 in each of Groups I, II and IV.

The sequences exemplified in the specification are not sequences with different functions or structures that merely happen to be described in the same specification. Instead, the specification describes and claims 1, 21, 47 and 58 recite a common structural motif (e.g., the B domain). Furthermore, the genus of sequences have a common functional role in plants (e.g., the development of embryonic tissue). In light of these common functional and structural features, a search of the sequences recited in claim 1 will effectively search all of the exemplified sequences.

The common structure is reflected in the relation between the sequences recited in claim 1 and the sequences in Group II. In particular, some sequences at least 68% identical to the B domain of SEQ ID NO:2 are subsequences of polynucleotides encoding SEQ ID NO:20. Thus, sequences comprising at least 68% identity with the B domain of SEQ ID NO:2 include polynucleotides encoding SEQ ID NO:20. For example, the subject matter of claims 4-5 is completely encompassed by claim 1. Therefore, a search of claim 1 will identify all art relevant to claims 4-5. Similarly, claims 23-24 are encompassed by claim 21, claims 50-51 are encompassed by claim 47 and claims 59-60 are encompassed by claim 58. Searches of each independent claim will identify all relevant art for the respective dependent claims. Accordingly, Applicants request that the Examiner include claims 1, 21, 47 and 58 into Groups II and IV as well as Group I.

3. *Group VI, directed to antisense constructs, can be searched with sense constructs and therefore should be recombined with the remaining restriction groups*

Claims 14, 34 and 65 (i.e., Group VI) are directed to aspects of the invention where polynucleotides encoding an LEC1 polypeptide are linked to a promoter in the antisense orientation. However, independent claims 1, 21 and 58, which are included in Group I, encompass the subject matter of claims 14, 34 and 65. For example, claim 1 is generally directed to expression cassettes encoding LEC1 polypeptides. Claim 14 is directed to the same polynucleotides linked to a promoter in the antisense orientation. Thus, all art relevant to claim 14 would be identified in a search of claim 1. Similarly, since claims 21 and 58 are broader than claims 34 and 65, a search of claims 21 and 58 is sufficient to identify all art relevant to claims 34 and 65.

Accordingly, Applicants request that the Examiner examine claims 14, 34 and 65 with Group I, II or IV, any of which encompass antisense constructs.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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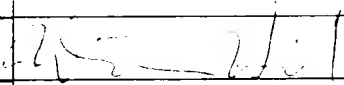
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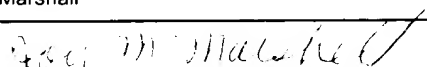
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/516,052	RECEIVED SEP 24 2001 TECH CENTER 600 2900
	Filing Date	March 1, 2000	
	First Named Inventor	Harada, John	
	Group Art Unit	1638	
	Examiner Name	C. Collins	
Total Number of Pages in This Submission		Attorney Docket Number	023070077630

ENCLOSURES (check all that apply)		
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<input type="checkbox"/> Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

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Firm and Individual name	Townsend and Townsend and Crew LLP Matthew E. Hinsch Reg No. 47,651
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Date	September 17, 2001

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